

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 379D. URBAN LAND BANK PROGRAM

IN MUNICIPALITY WITH POPULATION OF 1.9 MILLION OR MORE

Sec. 379D.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program Act for a Municipality with a Population of 1.9 Million or More.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.002. APPLICABILITY. This chapter applies only to a municipality with a population of 1.9 million or more.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.003. DEFINITIONS. In this chapter:

(1) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(2) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring real property under this chapter.

(3) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(4) "Qualified participating developer" means a developer who meets the requirements of Section 379D.005 and includes a qualified organization under Section 379D.012.

(5) "Urban land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 379D.006.

(6) "Urban land bank program" or "program" means a program adopted under Section 379D.004.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.004. URBAN LAND BANK PROGRAM. (a) The governing body of a municipality may adopt an urban land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by this chapter.

(b) The governing body of a municipality that adopts an urban land bank program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring real property under this chapter.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.005. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in an urban land bank program, a developer must:

(1) have built three or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the urban land bank plan.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.006. URBAN LAND BANK PLAN. (a) A municipality that adopts an urban land bank program shall operate the program in conformance with an urban land bank plan.

(b) The governing body of a municipality that adopts an urban land bank program shall adopt a plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of second refusal provided by Section [379D.012](#);

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the upcoming year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of funding anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. [356](#)), Sec. 1, eff. September 1, 2005.

Sec. 379D.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The mayor or the mayor's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) The mayor or the mayor's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. [356](#)), Sec. 1, eff.

September 1, 2005.

Sec. 379D.008. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsections (b) and (g), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section [34.01](#), Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a habitable building or buildings, as described by the municipality's health and safety code;

(3) there are delinquent taxes on the property for each of the preceding six years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program.

(b) A property that is not improved with a habitable building or buildings, as described by the municipality's health and safety code, may not be sold to a land bank under this section if the property is currently occupied by a person who has resided on the property for at least a year.

(c) A sale of property for use in connection with the program is a sale for a public purpose.

(d) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section [33.50](#), Tax Code.

(e) For any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney,

shall be given, not later than the 30th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice shall be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(f) After receipt of the notice required by Subsection (e) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(g) If the officer charged with the sale receives a written request as provided by Subsection (f), the officer shall sell the property as otherwise provided in Section [34.01](#), Tax Code.

(h) The owner of the property subject to sale may not receive any proceeds of a sale under this chapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this chapter.

(i) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(j) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest owned by the defendants included in the foreclosure judgment, including the defendants' right to the use and possession of the property, subject only to the defendants' right of redemption, the terms of a recorded restrictive covenant running with the land that was recorded before January 1 of the year in which the tax lien on the property arose, a recorded lien that arose under that restrictive covenant that was not extinguished in the judgment foreclosing the tax lien, and each valid easement of record as of the date of the sale that was recorded before January 1 of the year the tax lien arose.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. [356](#)), Sec. 1, eff.

September 1, 2005.

Sec. 379D.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(b) Except as provided by Section 379D.011, the land bank must sell a property to a qualified participating developer within the five-year period following the date of acquisition for the purpose of construction of affordable housing for sale or rent to low income households. If after five years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) The number of properties acquired by a qualified participating developer under this section on which development has not been completed may not at any given time exceed three times the annual average residential units produced and completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions with appropriate terms and conditions on property sold to qualified participating developers and eligible adjacent property owners that require:

(1) the development and sale or rental of the property to low income households, if the property is sold to a qualified participating developer; or

(2) the use of the property to be consistent and compatible with the residential character of the neighborhood and any applicable standards for use adopted by the land bank, if the property is sold to an eligible adjacent property owner.

(b) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) Housing developed under this chapter may consist of one to four residential units. At least one unit of any structure with two to four units must be owned and occupied as a primary residence by a low income household. The remaining units may be rental units if each tenant household meets the income eligibility requirements of a low income household.

(d) Notwithstanding Subsection (c), housing developed under this chapter may consist of one to eight residential units, all of which may be rental units, if:

(1) each tenant household meets the income eligibility requirements of a low income household;

(2) the housing is located in an area that:

(A) is adjacent to the central business district of the municipality; and

(B) has a number of owner-occupied households that does not exceed 25 percent of the total number of households in the area; and

(3) the median income of households for the area described by Subdivision (2) is less than 50 percent of the median income of households for the municipality.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. [1742](#)), Sec. 9, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. [1908](#)), Sec. 30, eff. September 1, 2007.

Sec. 379D.011. RIGHT OF FIRST REFUSAL IN ELIGIBLE ADJACENT PROPERTY OWNERS; CONDITIONS OF PURCHASE. (a) Property acquired by the land bank shall be offered for sale, at fair market value as determined by the appraisal district in which the property is located, to eligible adjacent property owners under a right of first refusal on terms and conditions developed by the land bank that are consistent with this chapter.

(b) To be eligible to exercise a right of first refusal under this section, an owner of property adjacent to property acquired by the land bank:

(1) must have owned and continuously occupied that property for at least the five preceding years as that person's principal residence; and

(2) must meet any eligibility requirements adopted by the land bank.

(c) An adjacent property owner who purchases property under this section may not lease, sell, or otherwise transfer the property to another party before the 10th anniversary of the date the adjacent property owner purchases the property. This prohibition does not apply to a transfer of property, as allowed by policies adopted by the land bank:

(1) to a family member of the adjacent property owner; or

(2) in the case of the death of the adjacent property owner.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. [356](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. [1742](#)), Sec. 10, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. [1908](#)), Sec. 31, eff. September 1, 2007.



Sec. 379D.012. RIGHT OF SECOND REFUSAL IN QUALIFIED ORGANIZATIONS. (a) In this section, "qualified organization" means a community housing development organization that:

(1) contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and

(3) within the preceding two-year period has built or rehabilitated housing units within a two-mile radius of the property that the land bank is offering for sale.

(b) If all eligible adjacent property owners fail to exercise the right of first refusal under Section 379D.011, the land bank shall offer a property for sale to qualified organizations that are eligible to acquire additional properties from the land bank under Section 379D.009(c). If a qualified organization is not eligible to acquire additional properties under that subsection at the time the property first becomes available for sale, the land bank is not required to hold the property from sale until the organization becomes eligible to purchase the property by the right of second refusal described by this section.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which the right of second refusal may be exercised.

(d) The municipality shall specify in its plan the period during which the right of second refusal provided by this section may be exercised by a qualified organization. That period must be at least 90 days in duration and begin after the period in which the right of first refusal described by Section 379D.011 may be exercised and at least three months but not more than 26 months from the date of the deed of conveyance of the property to the land bank.

(e) During the period specified for the right of second refusal under Subsection (d), the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of second refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(f) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(g) If more than one qualified organization expresses an interest in exercising its right of second refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(h) In its plan, the municipality may provide for other rights of second refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, provided that the preeminent right of second refusal is provided to qualified organizations as provided by this section.

(i) The land bank is not required to provide a right of second refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 379D.009(d).

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.013. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.014. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the

developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) The land bank and the municipality shall maintain copies of the performance report available for public review.

Added by Acts 2005, 79th Leg., Ch. 795 (S.B. 356), Sec. 1, eff. September 1, 2005.

Sec. 379D.015. EFFECT OF SALE TO LAND BANK OR SUBSEQUENT PURCHASERS OR LENDERS FOR VALUE; LIMITATION ON CERTAIN CAUSES OF ACTION. After the first anniversary of a sale of property to a land bank under this chapter:

(1) a third party, other than a qualified

participating developer or eligible adjacent property owner who purchased the property from the land bank under this chapter or a person with a cause of action based on a right, title, interest, or other claim described by Subdivision (2)(A)(ii), may not bring a cause of action to set aside or otherwise challenge the sale of the property to the land bank, including a cause of action that is brought against:

- (A) a qualified participating developer or eligible adjacent property owner who purchases property from the land bank under Section 379D.009 or 379D.011, as applicable; or

- (B) any other subsequent purchaser for value or lender for value; and

(2) a qualified participating developer or eligible adjacent property owner who purchases property from a land bank under this chapter or any other subsequent purchaser for value or, if applicable, a lender for a developer, owner, or purchaser described by this subdivision or any other subsequent lender for value:

- (A) has, with the following characteristics, a full title to the property:

- (i) except as provided by Subparagraph (ii), the title is not subject to any right, title, interest, or other claim a person acquired in the property before or after the sale of the property to the land bank, including a right of first refusal, right of second refusal, and any other right, title, interest, or other claim provided by this chapter, other than the right of reverter provided by Section 379D.009(d); and

- (ii) the title is subject only to:

- (a) the recorded restrictive covenants, liens, and valid easements of record described by Section 34.01(n), Tax Code;

- (b) any rights of redemption applicable to the property;

- (c) any cause of action to impeach the property deed based on a claim of fraud;

- (d) the right of reverter provided by Section 379D.009(d) and the recorded deed restrictions described by

Section [379D.010](#); and

(e) any right, title, interest, or other claim with respect to the property that arose after the sale of the property to the land bank under a law other than this chapter; and

(B) may conclusively presume that:

(i) the sale of the property to the land bank under this chapter was valid; and

(ii) a mortgage on or a subsequent sale of the property complies with this chapter and is subject only to a right, title, interest, or other claim provided by Paragraph (A)(ii).

Added by Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. [1742](#)), Sec. 11, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. [1908](#)), Sec. 32, eff. September 1, 2007.